



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/839,986	04/20/2001	Andreas K. Nielsen	35303.00003	3116

7590 03/11/2004

SQUIRE, SANDERS & DEMPSEY L.L.P.
Two Renaissance Square
Suite 2700
40 North Central Avenue
Phoenix, AZ 85004-4498

EXAMINER

WILKENS, JANET MARIE

ART UNIT PAPER NUMBER

3637

DATE MAILED: 03/11/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/839,986

Applicant(s)

NIELSEN, ANDREAS K.

Examiner

Janet M. Wilkens

Art Unit

3637

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 2-4 and 9-20 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 2-4 and 9-18 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☒ Claim(s) 19 and 20 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

Please note that Mr. Anderson is no longer examining this application. The case has been taken over by the undersigned and any inquiries should be directed thereto.

Election/Restrictions

The restriction requirement for claims 19 and 20 is being maintained (with traverse), while the requirement for claim 13 is being withdrawn. Claims 19 and 20 are drawn to a method of exercising using computer interaction to accomplish this method. This type of claim is beyond the scope of class 312 (cabinets) and as shown in the requirement of November 10, 2002, is classified in a different class 482/9 (exercise devices/with computer features). Note: as for the "equipment" limitations cited in the elected claims, since the exercise equipment is generically "provided" in the modules, the residual class of 312 is the home of this case, as any type of feature/equipment is storable in a cabinet. Once limitations are more than nominally claimed together and/or include features, i.e. the computer interaction, beyond to scope of the class, the cabinet with these features is properly classifiable in the combination class, i.e. class 482. As for claim 13, since this claim is simply drawn to the arrangement of the modules with a support surface, a combination well known in the cabinet art (see art rejection below for example), this claim has been regrouped with the elected claims.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 2 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. For claim 2, "the door" lacks antecedent basis. Note: the door has not been positively claimed previously.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 2-4 and 9-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kelley et al (5,626,404). Kelley teaches a modular furniture system (Figs. 1 and 29-31) comprising: a first module (10), a second module (10) and a third module (10); each containing orifices (58) therein, an interior wall (494), shelves/supports (450,486) and pocket doors (26). The furniture is located in an office setting and includes wiring orifices and therefore, computer equipment/electric equipment of any type (including those with graphic user interfaces, video cameras, all kinds of peripherals, monitors, links/cables to interconnect features, etc.) could inherently be provided for use therein. Note: general equipment is being claimed; there being nothing inventive about this equipment. However, Kelly fails to specifically teach exercise equipment inside one/two of the modules. The examiner takes Official notice that portable exercise equipment,

such as bar bells, is well known in the art. It would have been obvious to one of ordinary skill in the art at the time of the invention to store exercise equipment, such as bar bells, inside one of the modules (on the shelves thereof), to provide a means that can be pulled out of the modules and used to reduce stress during employee breaks, etc. The module/shelves simply providing storage space for the exercise equipment. Furthermore, the modules and equipment are arrangable so that one using the exercise equipment can view the electronic equipment and a support /pedestal table (512) is usable in combination with the modules and arranged therewith accordingly (see Fig. 33 (c) wherein two modules are back to back with a support extending from the side thereof). Also, either type of equipment is storable/usable in any of the modules.

Claims 10 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Niebojewski in view of Barkschat and Richardson. Niebojewski teaches a modular furniture system (Fig. 1) comprising: a module (10) with doors (15,16) and interior compartments. The furniture is specifically for housing exercise equipment. Niebojewski fails to specifically teach computer equipment located on a support/shelf in the module. First, Barkschat teaches a shelf (19) in an exercise module. Second, Richardson teaches computer equipment (39) located on a shelf. It would have been obvious to one of ordinary skill in the art at the time of the invention to add a shelf in one or more of the compartments of Niebojewski, such as is taught by Barkschat, to store exercise equipment, such as bar bells, or other types of equipment, such as computer monitors (see Richardson) and other peripherals (including those with graphic user interfaces, links/cables to interconnect features, etc.), inside the module, to provide a

compartmentalized storage means inside the module. Furthermore, adding computer equipment inside the module would allow one to watch videos, listen to music, monitor themselves using specified software, etc.

Response to Arguments

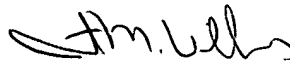
Addressing applicant's argument that the prior art has to suggest the desirability of a combination of features. As stated above, any type of object can be placed in a module/cabinet. This includes all types of electronic equipment and/or exercise equipment. The determining factor being the intended use of the modules. The fact that no one reference shows computers and exercise equipment being located in adjacent and/or the same module does not in and of itself suggest that one of ordinary skill in the art would not know or be inclined to do so. Furthermore, placing these objects in the module(s) produces no unexpected results.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Janet M. Wilkens whose telephone number is (703) 308-2204. The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lanna Mai can be reached on (703) 308-2486. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Wilkins
February 23, 2004


JANET M. WILKENS
PRIMARY EXAMINER
AAU 43637